

TRIAL PROCEDURE / EVIDENCE

Kansas v. Cheever, --- U.S.--- (2013)

Decided December 11, 2013

FACTS: On January 19, 2005, Cheever shot and killed Sheriff Matthew Samuels (Greenwood County, Kansas). In the hours before the shooting, he and friends had cooked and smoked methamphetamine. When they were alerted that law enforcement was on the way to arrest him on an unrelated matter, he tried to flee, but found that his car had a flat tire. Instead, he and a friend hid upstairs, with a loaded pistol. When he heard footsteps coming up the stairs, he stepped out and shot Sheriff Samuels. He stepped back into the bedroom and then, “walked back to the staircase and shot Samuels again.) Although he fired at other officers, only Samuels was hit.

Kansas charged Cheever with capital murder. Shortly thereafter, the Kansas Supreme Court had found the death penalty scheme unconstitutional, so the prosecution dismissed their own charges and allowed the federal authorities to prosecute Cheever under the Federal Death Penalty Act of 1994.¹ In that proceeding, he gave notice that he intended to raise the defense that he was intoxicated on methamphetamine at the time of the shooting, so much so that he could not have formed the specific intent needed under the charge. He was ordered to undergo a psychiatric examination.

During a postponement in the proceedings, the Kansas Supreme Court ruled that the death penalty was, indeed, constitutional in Kansas and Kansas brought a second prosecution against Cheever. (He was never tried under federal law.) There he also “presented a voluntary-intoxication defense,” arguing his methamphetamine use had made him “incapable of premeditation.” Testimony was presented that he has suffered brain damage due to long term methamphetamine abuse. Kansas attempted to rebut this testimony using the psychiatrist who had examined him while the case was in federal court. Cheever objected, arguing that this violated the Fifth Amendment’s Self-Incrimination Clause, as he’d not agreed to the examination. The trial court permitted it, however, noting that even the defense expert had used the report in coming to his conclusion.

Cheever was convicted of murder and attempted murder, and sentenced to death. He appealed first to the Kansas Supreme Court, which ruled in his favor, agreeing that using the information from the court-ordered examination violated his rights.

Kansas appealed and the U.S. Supreme Court granted review.

¹ 18 U.S.C. §3591 et seq.

ISSUE: May the prosecution use a court-ordered psychiatric examination to rebut evidence of the mental status of the defendant?

HOLDING: Yes

DISCUSSION: The Court, as did the Kansas courts, first looked to Estelle v. Smith, in which a prior U.S. Supreme Court had ruled that “a court-ordered psychiatric examination violated the defendant’s Fifth Amendment rights when the defendant neither initiated the examination nor put his mental capacity in dispute at trial.”² However, in Buchanan v. Kentucky, a later Court had agreed that “a State may introduce the results of a court-ordered mental examination for the limited purpose of rebutting a mental-status defense.”³

In this case, the Court agreed, “where a defense expert who has examined the defendant testifies that a defendant lacked the requisite mental state to commit an offense, the prosecution may present psychiatric evidence in rebuttal.” In this case, the “State permissibly followed where the defense led.” Further, the Court noted that although voluntary intoxication is not a “mental disease or defect,” as narrowly defined in Kansas, that the Court had a broader view of the term and felt it appropriate to allow a “mental status” defense – as Cheever was in this case. (Kansas had declined to apply Buchanan because it ruled that Cheever’s intoxication was a temporary state, not a permanent one.) The Court agreed that “Cheever’s psychiatric evidence concerned his mental status because he used it to argue that he lacked the requisite mental capacity to premeditate.” The Court agreed that such testimony is limited, however. Since Kansas did not address the issue as to whether the expert exceeded the scope of rebuttal, the Court declined to address it either.

The Court vacated the decision of the Kansas Supreme Court (which overturned Cheever’s conviction) and remanded the case for further proceedings.

FULL TEXT OF OPINION: http://www.supremecourt.gov/opinions/13pdf/12-609_g314.pdf

² 451 U.S. 454 (1981).

³ 488 U.S. 402 (1987).